

F-6842

ATTENTION: Examiner Tran N. Nguyen
Fax No. (703) 305-1341

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

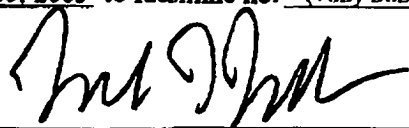
Applicant : Masami AIZAWA, et al.
Serial No. : 09/767,459
Filed : January 23, 2001
For : ROTOR MAGNET, MOTOR AND STEPPING MOTOR
Group Art Unit : 2834
Examiner : Tran N. Nguyen

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Frank J. Jordan
(Name of Registered Representative)


(Signature and Date)

08/20/03

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Examiner Tran N. Nguyen

**REQUEST FOR RECONSIDERATION AND
TO WITHDRAW THE FINALITY OF
THE OFFICE ACTION DATED NOVEMBER 6, 2002**

Sir:

This is a Request for Consideration and to withdraw the finality of the Official Action dated November 6, 2002. This paper also confirms Counsel's telephone conversation with Examiner Tran N. Nguyen on August 19, 2003.

In the Official Action dated November 6, 2002, in the Office Action Summary an "X" was placed in the box adjacent to Paragraph 2b which indicated that "This action is non-final".

On page 4 of the Official Action dated November 6, 2002, the Examiner indicated that the Action was Final.

When preparing the Amendment dated May 5, 2003 in response to the Official Action dated November 6, 2003, Counsel relied on the Office Action Summary indicating that the Action was not Final and in so doing inadvertently overlooked the inconsistency on page 4 indicating that the Action was Final. The Amendment dated May 5, 2003 nowhere indicated that it was in response to a Final Rejection. When preparing a response to a Final Rejection, Counsel invariably uses the heading "Amendment After Final Under 37 CFR 1.116" and addresses the Amendment to MailStop AF. Since this was not done, it is indicative that Counsel did not believe that he was responding to a Final Rejection.

In addition to the above, the six month term for responding to the Official Action dated November 6, 2002 was May 6, 2003. Accordingly, if Counsel had believed that he was responding to a Final Rejection, he also would have filed a Notice of Appeal within the six month term to avoid abandonment. However, hereagain, this was not done.

It can be seen from the above, therefore, that when Counsel filed the Amendment dated May 5, 2003, he did not believe he was responding to a Final Rejection. Counsel only became aware of this when he received the Advisory Action dated August 12, 2003.

It appears that each side had a miscue here, the Examiner in indicating that the Action was non-final in the Office Action Summary (which was inconsistent with page 4 of the Office Action) and Counsel in not resolving the inconsistency between the non-final indication in the Office Action Summary and the final indication on page 4 of the Official Action before responding to the Office Action.

Applicant appreciates the Examiner's explanation of the situation in the Office Action dated August 12, 2003. However, as things now stand, if the Office Action dated November 6, 2003 is to be considered a Final Rejection, then this application would be considered abandoned as of May 6, 2003.

It is respectfully submitted that, given the above circumstances, this is a harsh resolution for the applicant and accordingly, it is respectfully requested that the Examiner reconsider the above and withdraw the finality of the Official Action dated November 6, 2002.


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If for any reason the finality is not withdrawn, it is respectfully requested that this paper be treated as a Petition Under 37 CFR 1.181 in which no fee is required or a Petition to Revive for Unavoidable Abandonment in which the Petition fee is \$110.00. Please charge any necessary Patent Office fees to Patent Office Deposit Account 10-1250.

Respectfully submitted,

JORDAN AND HAMBURG LLP

By 
Frank J. Jordan
Reg. No. 20,456
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340

FJJ/cj